

0707 00000 10 APR 2006



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
AS DESIGNATED/ELECTED OFFICE**

Applicant: Moerck, *et al.*

Serial No.: 10/536,856

International  
Application No.: PCT/US03/38235

International  
Filing Date: December 2, 2003

For: RARE EARTH COMPOSITIONS AND  
STRUCTURES FOR REMOVING  
PHOSPHATES FROM WATER

Group Art Unit: Unknown

Examiner: Unknown

Att'y. Dkt.: 07TJ-116264

**CERTIFICATE OF MAILING  
TRANSMISSION  
(37 C.F.R. § 1.8A)**

I hereby certify that this correspondence is, on  
the date shown below, being:

(X) deposited with the United States Postal  
Service with sufficient postage as first class  
mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450.

( ) transmitted by facsimile to the Patent and  
Trademark Office.

4-5-06 Jordan Wilson  
Date Jordan Wilson

**RESPONSE TO THE NOTIFICATION OF MISSING REQUIREMENTS  
UNDER 35 U.S.C. 371 IN THE UNITED STATES AS DESIGNATED/ELECTED OFFICE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Missing Requirements Under 35 U.S.C. §371, dated  
February 22, 2006 and relating to completion of the above-identified application, transmitted herewith  
are the following:

- 1). Copy of the Notification of Missing Requirements Under 35 U.S.C. §371, dated  
February 22, 2006;
- 2). Transmittal Letter to the United States Designate/Elected Office (DO/EO/US)  
Concerning a Submission Under 35 U.S.C. 371, second submission;
- 3). Copy of Declaration for Patent Application (from U.S. patent application no.  
10/444,774);

- 4). Power of Attorney to Prosecute Applications Before the USPTO.
- 5). Statement Under 37 CFR 3.73(b) with attached recorded Assignment.

Attorney for applicant(s) have provided a second submission of the Transmittal Letter to the United States Designate/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371 to indicate that the application claims small entity status. Accordingly, the total filing fee of \$ 1,710.00 submitted upon filing of the application are sufficient for small entity status.

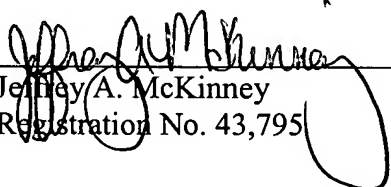
The Commissioner is hereby authorized to charge \$65.00 to Deposit Account No. **501395** for the surcharge fee for late submission of the Declaration. This document is filed in duplicate.

The Commissioner is also authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 or credit any overpayment, to Deposit Account No. **501395**.

April 5, 2006

Respectfully submitted,

Sheppard Mullin Richter & Hampton LLP  
Four Embarcadero Center, 17<sup>th</sup> Floor  
San Francisco, CA 94111-4106  
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Jeffrey A. McKinney  
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04/17/2006 GFREY1 00000120 501395 10536856  
01 FC:2617 65.00 DA

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371</b>		ATTORNEY'S DOCKET NUMBER <b>07TJ-116264</b>
INTERNATIONAL APPLICATION NO. <b>PCT/US03/38235</b>		U.S. APPLICATION NO. (If known, see 37 CFR 1.5) <b>10/536,856</b>
INTERNATIONAL FILING DATE <b>12/02/2003</b>		PRIORITY DATE CLAIMED <b>12/02/2002</b>
TITLE OF INVENTION <b>RARE EARTH COMPOSITIONS AND STRUCTURES FOR REMOVING PHOSPHATES FROM WATER</b>		
APPLICANT(S) FOR DO/EO/US		

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

**Items 11 to 20 below concern document(s) or information included:**

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A preliminary amendment.
14. ☐ An Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☒ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825.
18. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) <b>10/536,856</b>	INTERNATIONAL APPLICATION NO. <b>PCT/US03/38235</b>	ATTORNEY'S DOCKET NUMBER <b>07TJ-116264</b>
20. Other items or information: <b>Statement Under 37 CFR 3.73(b) and copy of Assignment recorded on 04/30/2004.</b>		
The following fees have been submitted		CALCULATIONS      PTO USE ONLY
21. <input type="checkbox"/> Basic national fee (37 CFR 1.492(a))..... <b>\$300</b>		\$
22. <input type="checkbox"/> Examination fee (37 CFR 1.492(c))		
If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... <b>\$0</b>		\$
All other situations..... <b>\$200</b>		
23. <input type="checkbox"/> Search fee (37 CFR 1.492(b))		
If the written opinion of the ISA/US or the International preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... <b>\$0</b>		\$
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority..... <b>\$100</b>		
International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB..... <b>\$400</b>		
All other situations..... <b>\$500</b>		
<b>TOTAL OF 21, 22 and 23 =</b>		
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is <b>\$250</b> for each additional 50 sheets of paper or fraction thereof.		
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)
- 100 =	/50 =	x \$250
Surcharge of <b>\$130.00</b> for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).		\$
CLAIMS	NUMBER FILED	NUMBER EXTRA
Total claims	- 20 =	x \$ 50
Independent claims	- 3 =	x \$200
MULTIPLE DEPENDENT CLAIM(S) (if applicable)		+ \$360
<b>TOTAL OF ABOVE CALCULATIONS =</b>		\$
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.		
<b>SUBTOTAL =</b>		\$
Processing fee of <b>\$130.00</b> for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).		\$
<b>TOTAL NATIONAL FEE =</b>		\$
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). <b>\$40.00</b> per property		\$
<b>TOTAL FEES ENCLOSED =</b>		\$
		Amount to be refunded:
		\$
		Amount to be charged
		\$

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

- a. ☐ A check in the amount of \$ \_\_\_\_\_ to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.
- c. ☐ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. \_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

**NOTE:** Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

SIGNATURE

Jeffrey A. McKinney

NAME

43,795

REGISTRATION NUMBER



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/536,856	Rudi E MOERCK	07TJ-116264

INTERNATIONAL APPLICATION NO.
-------------------------------

PCT/US03/38235

I.A. FILING DATE	PRIORITY DATE
12/02/2003	12/02/2002

Jeffrey A McKinney  
Sheppard Mullin Richter & Hampton  
333 S. Hope Street  
48th Floor  
Los Angeles, CA 90071

**RECEIVED**

MAR 01 2006

SHEPPARD, MULLIN, RICHTER  
& HAMPTON LLP

CONFIRMATION NO. 4641

371 FORMALITIES LETTER



\*OC000000018088602\*

Date Mailed: 02/22/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 05/27/2005
- Copy of the International Search Report filed on 05/27/2005
- U.S. Basic National Fees filed on 05/27/2005
- Priority Documents filed on 05/27/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **\$800** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$930** for a Large Entity:

- **\$130** Surcharge.

- Total additional claim fee(s) for this application is \$ 800
  - \$800 for 23 total claims over 20.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

FRANCINE YOUNG

Telephone: (703) 308-9140 EXT 215

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/536,856	PCT/US03/38235	07TJ-116264